

REMARKS**I. Kuebler Does Not Anticipate Claims 5 and 6 Because Kuebler Does Not Have All Elements of the Claims**

Claims 5 and 6 were rejected under 35 U.S.C. § 102 (b). To anticipate, all claim elements must be present in a single publication. The examiner attempts to find each element in claims 5 and 6, to be taught by Kuebler as follows:

Kuebler, According to the Examiner	Present Claims
18	5. A device for locking a rope in place, comprising
22, 20	a lock housing;
150	a first and a second shoe contained within said housing such that the rope passes between the shoes;
150	means for positioning the first shoe between the top and bottom of the housing, such that the first shoe can translate towards the top or bottom of the housing;
150 (vertically/ 28, 30 horizontally)	means for positioning the second shoe between the top and bottom of the housing such that the second shoe can translate towards the top or bottom of the housing, and towards or away from the first shoe;
126	a handle with a locked and unlocked position'
44, 46, 48, 50	means for closing the second shoe in response to moving the handle to the locked position such that the second shoe translates towards the first shoe without rotation.
col. 4, line 30 col. 5, line 3	6. The device of claim 5, further comprising a means for automatically holding the second shoe in the closed position in response to placing the load on the rope while the second shoe is in the closed position.

A. Kuebler Does not Have a First and a Second Shoe

Kuebler has only one shoe. The shoe 20 rides inside of anvil 18 and gains it horizontal movement from the vertical movement of 18, whereas the two shoes of the present disclosure move independently.

According to the Kuebler, 18 is a gripping means comprising an anvil and a mating shoe

20.

22 is an opposed cylindrical recess that does not move. It is not a “shoe”.

Shoe 20 slides left or right whereas one of the present shoes moves to top and bottom of the housing and the second shoe moves horizontally and vertically. In Kuebler, shoe 20 is slidably mounted within 28, 30 at the respective ends of anvil 18 and slides to right or left.

The automatic mechanism of Kuebler is completely different from the present claim. In the section of Kuebler cited by the examiner,

anvil and shoe move vertically . . .

cam surfaces . . . apply pressure to rollers . . .

This jams the wedge member 62 tightly in position . . . and increases the gripping pressure applied by the anvil 18 and shoe 20 to the rope.

B. Kuebler Does Not Have a “Handle” As In Claim 5

The Kuebler system (U.S. Patent No. 2,991,526) is neither a clutch nor a rope lock, but only a safety mechanism. In the Kuebler system, a “deadman” pedal (foot stirrup 126, col. 4, line 63) defeats the safety mechanism by removing the surface the shoe bears against.

Kuebler lacks the capability to lock a rope in place by manually moving a handle. Kuebler’s pedal is operative by a foot, not by hand and when the foot is removed the rope locks. When the hand is removed from the unlocked handle of the present invention, the handle stays unlocked until either the system is unbalanced or the handle is put in the locked position. In the present invention the shoes close on the rope both in response to manual activation of a handle and in response to rope movement that would occur if the system is unbalanced.

Because Kuebler does not teach all the elements of claims 5 and 6, please withdraw the anticipation rejection.

Adding Dalmaso to Kuebler Does Not Establish a Prima Facie Case of Obviousness

Claims 1 through 4 were rejected under 35 U.S.C. § 103 over Kuebler with Dalmaso.

Dalmaso’s lock is a one way rope clutch. The line will freely pass in one direction and grip the line in the other whereas the present lock grips in either direction.

In Dalmaso, the double linkage is directly coupled to a rounded cam with teeth on each linkage. The cams push the line into the inside of the body of the device. In the present invention, the line does not pass between the cams. The line is compressed (gripped) by the body and the cams. In contrast, the claimed system has 2 shoes which are straight and parallel to each

other. The line passes between the 2 shoes, which float, and the line is gripped to stop motion in both directions. The cams move the roller base plate which engage the shoes. There is no direct action between the double linkage and the shoes.

Dalmaso's device moves, the line is stationary. In contrast, the claimed device is stationary, and the line moves.

There is no motivation or suggestion to combine Kuebler with Dalmaso. Kuebler relates to the art of theater. Dalmaso relates to a security device for a workman, for fall arrest for people, not to control line-movement. Therefore, a *prima facie* case of obviousness is not established.

Even were teachings of Kuebler and Dalmaso combined, the total would not yield claims 1-4. The deficiencies in Kuebler compared to the present invention are discussed concerning claims 5 and 6. Claim 1 still has a first and a second shoe which Kuebler doesn't teach, and a handle.

Adding Dalmaso does not cure these deficiencies. In fact, the examiner only adds Dalmaso because the examiner admits "Kuebler does not disclose a first and a second cam..." Dalmaso's cams 78 and 80, to which the examiner references, are different from the cams of claims 1-4.

To properly combine two references to reach a conclusion of obviousness, there must be some teaching, suggestion or inference in either or both of the references, or knowledge generally available to one skilled in the art, which would have led one to combine the relevant teachings of the two references. *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc. et al.* (CAFC 1985) 776 F. 2d 281, 227 USPQ 657; *Ex parte Levengood, supra*. Both the suggestion to make the claimed composition or device or carry out the claimed process and the reasonable expectation of success must be founded in the prior art, not in applicant's disclosure. *In re Vaeck* (CAFC 1991) 947 F. 2d 488, 20 PQ. 2d 1438. Citing references which merely indicate that isolated elements and/or features recited in the claims are known is not a sufficient basis for concluding that the combination of claimed elements would have been obvious, *Ex parte Hiyamizu* (BPAI 1988) 10 PQ. 2d 1393, absent evidence of a motivating force which would impel persons skilled in the art to do what applicant has done. *Ex parte Levengood* (BPAI 1993) 28 PQ. 2d 1300. The

references, viewed by themselves and not in retrospect, must suggest doing what applicant has done. *In re Shaffer* (CCPA 1956) 229 F. 2d 476, 108 USPQ 326; *In re Skoll* (CCPA 1975) 523 F. 2d 1392, 187 USPQ 481. Obviousness requires a suggestion of all limitations in a claim". *CFMT, Inc. v. Yieldup Int'l Corp.*, 2003 U.S. App. LEXIS 23072 (Fed. Cir. 2003).

Please withdraw the rejection of the claims 1-4 under 35 U.S.C. § 103.

• • • •

No other fees are believed due at this time, however, please charge any additional deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (29947-93100).

Respectfully Submitted,



Alice O. Martin

Registration No. 35,601

Barnes & Thornburg
P.O. Box 2786
Chicago, Illinois 60690-2786
March 8, 2004